

1 HONORABLE RICHARD A. JONES
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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT SEATTLE

11 HOUSTON BYRD,

12 Plaintiff,

13 v.

14 HON. JUDGE A. HARPER, et al.,

Defendants.

Case No. 2:18-cv-00479 RAJ

ORDER

15 **I. INTRODUCTION**

16 This matter is before the Court on Plaintiff's motion for default judgment.
17 Dkt. # 12. For the reasons below, Plaintiff's motion is denied as moot and the Court
18 dismisses the action without prejudice.

19 **II. DISCUSSION**

20 A district court may sua sponte dismiss a *pro se* complaint filed in forma pauperis
21 under 28 U.S.C. § 1915(d) where the complaint is "frivolous" in that it lacks any arguable
22 basis in law or fact. *Denton v. Hernandez*, 504 U.S. 25 (1992); *Jackson v. Arizona*, 885
23 F.2d 639, 640 (9th Cir. 1989).

24 From what the Court can ascertain, Plaintiff alleges that a King County judge
25 committed perjury and other acts of judicial misconduct in a state court case involving
26 Plaintiff. The Complaint, however, fails to put forth any facts supporting Plaintiff's
27 allegations and instead quotes numerous statutes and cases concerning fraud on the court.

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1 Dkt. # 5 at 9-10.

2 Furthermore, it is settled that “[j]udges are immune from suit arising out of their
3 judicial acts, without regard to the motives with which their judicial acts are performed,
4 and notwithstanding such acts may have been performed in excess of jurisdiction, provided
5 there was not a clear absence of all jurisdiction over the subject matter.” *Sires v. Cole*, 320
6 F.2d 877, 879 (9th Cir. 1963); *see also Stump v. Sparkman*, 435 U.S. 349, 356–57 (1978)
7 (explaining that a judge will not be deprived of immunity because the action he took was
8 in error, was done maliciously, or was in excess of his authority).

9 While it appears that any amendment to the Complaint will fall within the purview
10 of judicial immunity, the Court will allow Plaintiff an opportunity to amend to allege
11 actions that fall outside of the immunity doctrine. *McQuillion v. Schwarzenegger*, 369
12 F.3d 1091, 1099 (9th Cir. 2004). Accordingly, the Court dismisses the action without
13 prejudice and **DENIES** as moot Plaintiff’s motion for default judgment and motion for
14 objection. Dkt. ## 10, 12. Any amendment must be filed within 14 days of this Order.

15 **III. CONCLUSION**

16 For the reasons stated above, the Court dismisses the action and **DENIES** as moot
17 Plaintiff’s motion for default judgment and motion for objection. Dkt. ## 10 and 12.

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19 DATED this 18th day of June, 2019.

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The Honorable Richard A. Jones
United States District Judge